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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,387	09/11/2003	Katsumune Hayashi	008647-0304926	3782
909	7590	06/16/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			NGUYEN, PHONG H	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	
			3724	

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,387	Applicant(s) HAYASHI ET AL.	
	Examiner Phong H Nguyen	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. Claims 5 and 6 are objected to because of the following informalities: numerical 21 on the last line of both claims should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 3, it appears that the blade length is nearly equivalent to the length of the movable-blade holding section but not its diameter.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wathieu (5,765,460).

Regarding claims 1, 3 and 4, Wathieu teaches the invention substantially as claimed including a stationary blade 50, a movable blade holding section 60, a movable blade 74 being disposed at an angle in respect to a line parallel with an axis of the movable blade holding section, and a drive section. See Figs. 1-3. Wathieu fails to teach the material of the movable blade holding section. One having ordinary skill in the art would have been motivated to make the blade holder out of resin material for weight reduction purpose. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331.

Regarding claim 2, a groove 72 on the movable blade holding section 60 for securing the movable blade 74 is best seen in Fig. 3.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wathieu (5,765,460) in view of Mayama et al. (4,794,693).

The modified device of Wathieu teaches the invention substantially as claimed except for a protrusion and an engaging part. Wathieu teaches using screws 76 to secure the blade 74 to the blade holder 60 instead. See Fig. 3. Mayama teaches providing a protrusion 6 on a blade holder for engaging with an engaging part 41 on the blade 40. See Figs. 1, 5, 6, 7 and 9. Therefore, one having ordinary skill in the art would have been motivated to provide protrusions on the blade holder of the modified device of Wathieu as an alternative way for securing the blade to the blade holder.

Furthermore, the modified device of Wathieu does not teach the material of the blade holder. One having ordinary skill in the art would have been motivated to make the blade holder out of resilient material since it is easier to manufacture and light weight. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331.

7. Claim 7 (1-4) is rejected under 35 U.S.C. 103(a) as being unpatentable over Wathieu (5,765,460) in view of Dean (4,651,605).

Wathieu teaches a rotary cutting device ^{as cited in} claims 1-4 capable of being used in a printer. The movable blade in the Wathieu's cutting device is easy to install since it involves in tightening or un-tightening screws 76. See Fig. 3 in Wathieu. Dean teaches a printer substantially as claimed including a paper transport section, a printer section for printing on a recording paper and a rotary cutting device for cutting the recording paper. See col. 1, lines 10-62. It would have been obvious to replace the rotary cutting device in Dean's printer for the rotary cutting device of Wathieu since the movable blade in the Wathieu's rotary cutting device is easier to install.

8. Claim 7 (5 and 6) is rejected under 35 U.S.C. 103(a) as being unpatentable over Wathieu (5,765,460) in view of and Mayama et al. (4,794,693) and Dean (4,651,605).

The modified device of Wathieu teaches the invention substantially as claimed except for a protrusion and an engaging part. Wathieu teaches using screws 76 to secure the blade 74 to the blade holder 60 instead. See Fig. 3. Mayama teaches providing a

protrusion 6 on a blade holder for engaging with an engaging part 41 on the blade 40.

See Figs. 1, 5, 6, 7 and 9. Therefore, it would have been obvious to provide protrusions on the blade holder of the modified device of Wathieu as an alternative way for securing the blade to the blade holder.

The modified device of Wathieu and Mayama is capable of being used in a printer. Dean teaches a printer substantially as claimed including a paper transport section, a printer section for printing on a recording paper and a rotary cutting device for cutting the recording paper. See col. 1, lines 10-62. It would have been obvious to replace the rotary cutting device in Dean's printer for the modified rotary cutting device of Wathieu and Mayama since the movable blade in the rotary cutting device of Wathieu and Mayama is easier to install.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Knobel (5,000,069), Schroeder et al. (5,779,370), Schweitzer et al (6,142,049), Iwao et al. (4,244,251), Hitz (5,359,915), Myogadani (5,001,952) and Pfeiffer (4,949,606) teach blade assembly of general interest.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 703-305-4989. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN:



June 4, 2004



STEPHEN CHOI
PRIMARY EXAMINER